

B1
Cael

by BUYASSE ET AL. entitled "VASCULAR TISSUE SEALING PRESSURE CONTROL", the entire contents of both of these disclosures are hereby incorporated by reference.--

On page 10, line 3, change "58a" to -- 52a --.

REMARKS

By this amendment, Applicants have amended the Specification to include a claim of priority to U.S. Application Serial No. 09/104,729 entitled "VASCULAR TISSUE SEALING PRESSURE CONTROL" which was filed on June 25, 1998 by Buysse et al. which is a continuation of U.S. Patent 5,776,130 (U.S. Application Serial No. 08/530,450) which was filed on September 19, 1995 by Buysse et al. entitled "VASCULAR TISSUE SEALING PRESSURE CONTROL". As of the filing date of this Amendment, U.S. Application Serial No. 09/104,729 was still pending before the U.S. Patent and Trademark Office.

With respect to the Examiner's 35 U.S.C. §112 rejections to claims 7, 18 and 26 as containing subject matter which was not described in the specification, Applicants respectfully direct the Examiner's attention to page 4, lines 16-18 and page 9, line 19 to page 11, line 4 of the specification which when read in connection with Figures 2, 3, 4, 7, 15, 16 and 17 more than adequately describes the "filleted" or manipulating wave portions 55a and 55b.

With respect to the Examiner's §112 objection to claim 17 as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to make or use the invention, i.e., the Examiner's opinion that "it would be physically impossible for the two inner facing surface[s] of the jaw members to be complimentary to each other if the disposition of the waveforms are different", the Examiner's attention is directed to Figures 10 and 11 which are illustrative of the claim language:

...a first plurality of wave forms longitudinally disposed on the inner facing surface of each of the jaw members [148a, 148b] and a second plurality of wave forms transversely disposed on the inner facing surface of the jaw member [160a, 160b].

Moreover, Figures 12, 13a and 13b also show an upper jaw member 240 with longitudinal wave portions 248a and transverse wave portions 248a1, 248a2. Clearly, a lower jaw member can be dimensioned to include longitudinal and transverse wave portions which would be complimentary to the wave portions of upper jaw member 240. It is therefore respectfully submitted that the Examiner may have simply misinterpreted the claim language and/or simply overlooked these atypical wave portion possibilities.

With respect to the Examiner's §112 objection to claim as reciting the limitation "improvement" in line 4, the Examiner's attention is directed to 37 C.F.R. §1.75(e) which is directed to Jepson-type claims and the U.S. Patent and Trademark Office's long accepted guidelines for claiming inventions in a Jepson-type format.

Applicants have also amended page 10, line 3 to correct the numerical reference to the manipulating wave portions from "58a" to --52a--.

In view of the foregoing, it is respectfully submitted that all of the Examiner's §112 objections with respect to the Specification and the claims have been corrected and/or obviated in view of Applicants' further explanation thereto.

Turning now to the Examiner's rejections of claims 1, 2 and 4 under 35 U.S.C. §102(b) as being anticipated by Buysse et al. (U.S. Patent No. 5,776,130) and the Examiner's rejections to claims 3, 5, 6, 8-17, 19-25 and 27-30 under 35 U.S.C. §103(a) as being unpatentable over Buysse et al. (U.S. Patent No. 5,776,130) in view of Lands et al. (U.S. Patent No. 6,090,109), Azonian et al. (U.S. Patent No. 6,083,150) and Francese et al. (U.S. Patent No. 5,553,624), Applicants have asserted a claim of priority relating to co-pending U.S. Application Ser. No. 09/104,729 entitled "VASCULAR TISSUE SEALING PRESSURE CONTROL" which was filed on June 25, 1998 by Buysse et al. which is a continuation of U.S. Patent 5,776,130 (U.S. Application Serial No. 08/530,450) which was filed on September 19, 1995 by Buysse et al. entitled "VASCULAR TISSUE SEALING PRESSURE CONTROL".

As of the filing date of this Amendment, U.S. Application Serial No. 09/104,729 was still pending before the U.S. Patent and Trademark Office. The Examiner

will also note that inventors Stephen Paul Buysse, Michael J. Lands and S. Wade Lukianow are all common inventors on the above applications thereby substantiating the claim of continuity among applications in accordance with MPEP §201.11.

In view thereof, the Examiner's 35 U.S.C. §102(b) and 35 U.S.C. §103(a) rejections to the above claims are now believed to be moot.

In view of the foregoing, it is therefore respectfully submitted that all of the claims of the present application, namely, claims 1-30, are patentably distinguishable over the cited prior art references and the other prior art references of record and are in proper condition for allowance. Accordingly, entry of the forgoing amendments and action on the merits of the application are earnestly solicited.

Respectfully submitted,



Edward C. Meagher
Attorney for Applicants
Reg. No. 41,189

DILWORTH & BARRESE, L.L.P.
333 Earle Ovington Boulevard
Uniondale, New York 11553
(516) 228-8484